

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KURT F. JOHNSON,

Petitioner,

v.

UNITED STATES OF AMERICA, et al.,

Respondents.

No. C 08-02462 JSW

**ORDER REQUIRING RESPONSE  
TO MOTION TO DISMISS**

On December 17, 2009, Petitioner Kurt F. Johnson filed a Motion to Dismiss this action, on the basis that the Court failed to comply with the requirements of *Castro v. United States*, 540 U.S. 375 (2003) before it construed his habeas petition in this case as a motion to vacate sentence pursuant to 28 U.S.C. § 2255. The Court HEREBY ORDERS that the Respondents shall file a response to the motion by no later than February 5, 2010. Mr. Johnson may file a reply by no later than February 19, 2010. The Court shall then take the matter under submission.

**IT IS SO ORDERED.**

Dated: January 21, 2010

  
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JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

KURT F. JOHNSON,

Plaintiff,

v.

USA et al,

Defendant.

Case Number: CV08-02462 JSW

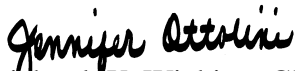
**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 21, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kurt F. Johnson  
#13177-081  
Safford Federal Correctional Institution  
P.O. Box 9000  
Safford, AZ 85548

Dated: January 21, 2010

  
Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk